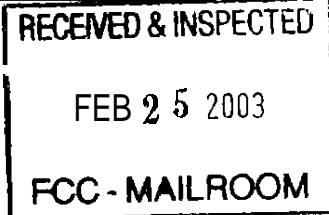




99-200
Barbara Lainson
Code Administrator
585-530-2825
585-697-2303 (fax)



February 18, 2003

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

**RE: Request for Waiver of NANPA's Denial of Choice One's Request for 1,000 Numbers
(One One-Thousand Blocks) to Meet a Specific Customer Need**

Dear Ms. Dortch:

Enclosed please find a request of U.S. Xchange of Indiana L.L.C. d/b/a Choice One Communications and its parent, Choice One Communications Inc., for Waiver of NANPA's Denial of Choice One's Request for 1,000 Numbers (One One-Thousand Blocks) to Meet a Specific Customer Need.

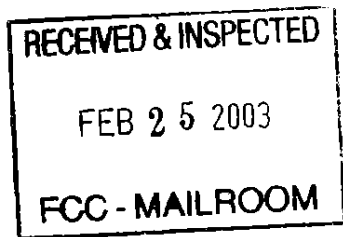
If you have any questions regarding this Petition, please do not hesitate to contact me at 585-530-2825.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Lainson".

Barbara Lainson

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554



In the Matter of)

Numbering Resource Optimization)

) CC Docket No. 99-200
)

**CHOICE ONE COMMUNICATIONS REQUEST FOR ASSIGNMENT
OF ONE ,ONE THOUSANDS BLOCK**

Choice One Communications Inc. and US Xchange of Indiana, L.L.C. d/b/a Choice One Communications ("Choice One") hereby requests that the Commission issue a waiver of NANPA's (*i.e.*, "NeuStar" or "Pooling Administrator") decision to deny Choice One's request for a new exchange code of 1,000 numbers (one one-thousand blocks) to meet the specific needs of a customer requesting additional numbering resources. Choice One takes such action pursuant to Federal Communications Commission ("FCC") rules (**47 C.F.R. 52.15(g)(3)(iv)**).

I. Background and Nature of the Numbering Request.

A Indiana customer of Choice One has requested that Choice One provide a block of consecutive numbers.¹ The customer is currently requesting 600 sequential numbers in total. Choice One's current inventory does not contain a block of consecutive numbers. Choice One's older markets were contaminated before all the number pool rules began; however, our newer markets are now well protected as a result of efficient numbering requirement:.

As a result of the above, the customer will need sequential telephone numbers in a one thousand block to facilitate office management and efficiency. The customer intends to use all of these numbers as soon as the numbers have been turned-up for service. On December 2, 2002, Choice One submitted a "Part 1" form to the Pool Administration System ("PAS"), NeuStar, requesting blocks in NPA 260 within the restrictions outlined by the customer. Choice One completed this application in accordance with the Industry Numbering Committee's Central Office Code (NXX) Guidelines and submitted the necessary Months to Exhaust and Utilization Certification Worksheet.²

¹ Choice One considers the customer's **name** proprietary and trade secret information. Accordingly, to keep this information confidential, Choice One **is** not revealing the name of **the** customer in this Letter.

² **A** copy ~~of~~ the Months to Exhaust and Utilization Certification Worksheet that Choice One submitted to NANPA is attached.

Choice One requested the one thousand block from NeuStar because it does not have the needed numbers available in our existing inventory. If the customer cannot get the needed numbers from Choice One, it will be forced to seek service from another carrier.

NeuStar denied Choice One's request because Choice One did not meet the Federal Communications Commission's ("FCC") utilization requirement for the Fort Wayne rate center. The denial of Choice One's request was based on NeuStar's understanding of the applicable FCC rules and related INC Guidelines which require that a block or code holder requesting growth resources demonstrate that existing resources within the rate center will both exhaust within six months, and meet the 65 percent utilization level. NeuStar calculates utilization for Choice One's request at 60.824 percent.

2. Request for Waiver of NANPA's NXX Code Denial.

Choice One requests that the FCC use its authority to modify NeuStar's decision and order the one one-thousand block that meets the customer's requirements be assigned to Choice One.

In setting its policy for the assignment of telephone numbers, the FCC designated NANP'A and the Pooling Administrator to handle numbering resource administration.' If the NANP'A or Pooling Administrator decides to withhold numbering resources from a carrier, the FCC has specifically authorized state commissions to overturn those decisions for reasonable cause documented herein. That authority is specifically set out in the relevant FCC Rule, 47 C.F.R. § (g)(4), which states:

The NANPA shall withhold numbering resources from **any** U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The **NANPA** must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. **The state commission may affirm, or may overturn, the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has complied with the reporting and numbering resource**

³ 47 C.F.R. § 52.15(a) states: "Central Office Code Administration **shall** be performed by the NANPA, or another entity or entities, as designated by the Commission." 47 C.F.R. § 52.20(d) states: "The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunications industry segment, and shall comply with the same neutrality requirements that the NANPA is subject to under **this part**."

application requirements herein. **The** state commission also may overturn the NANPA's decision to withhold numbering resources **from** the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies. (Emphasis added)

In addition, the FCC through the INC Guidelines provides that appropriate regulatory authorities may review the Pooling Administrator's decision to deny a request for numbering resources.⁴

The FCC also clarified in the text of a recent *NRO* Order⁵ that carriers may now appeal to states using a "safety valve" mechanism (paragraphs 57-66). As is noted in the following, the FCC contemplated the need for, and gave structure to states to respond when denials failed to consider a "specific customer request":

...a carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier's inability to satisfy a specific customer request. We therefore clarify that states may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center. States may not accommodate requests for specific numbers (i.e., vanity numbers), but may grant requests for customers seeking contiguous blocks of numbers. **Any** numbering resources granted for this reason may be initially activated only to serve the requesting customer for whom the application was made. If the customer request is **withdrawn** or **declined**, the requesting carrier must return the numbering resources to the NANPA or Pooling Administrator, and may not retain the numbering resources to serve other customers without first meeting our growth numbering resource requirements.⁶

It is clear that all necessary elements are present to allow the Department adequate evidence for the overturning of NeuStar's denial. First, Choice One made the appropriate application to NeuStar. Second, NeuStar denied Choice One's request for a

⁴ See INC **TBPAG** Sections 3.7 and 12(c).

⁵ *In the Matter of Numbering Resource Optimization. et al.*, CC Docket Nos. 99-200 and 96-90. Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 ("Third NRO").

⁶ *Id.* at ¶ 64.

one thousand block in the Fort Wayne rate center because Choice One's utilization of its numbers in this rate center *just missed* the requisite percent.

FCC numbering policy is not intended to deny carriers the use of numbers for legitimate purposes such as this. In issuing its Numbering Resource Optimization Order released December 29, 2000 (and effective May 8, 2001)⁷, the FCC communicated the heart of its pro-competition policy when it stated:

“[w]e continue to develop, adopt and implement a number of strategies to ensure that the numbering resources of the North American Numbering Plan (NANP) are used efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace.”⁸

Accordingly, Choice One respectfully requests the FCC to grant this waiver request on an expedited basis, and direct NeuStar to assign to Choice One the one-thousand block that meets the customer's requirements immediately.

Thank you for your assistance in this matter.

Very truly yours,



Barbara Lainson
Code Administrator
U.S. Xchange of Indiana, L.L.C.

Enclosures

cc: Christopher Hanifin, Esq.

⁷ *In the Matter of Numbering Resource Optimization, et al.*, CC Docket Nos. 99-200 and 96-98, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 89-200 (rel. Dec. 29, 2000) (“*FCC 00-429 Second NRO*”). Due to its length, the 108 page *FCC 00-429 Second NRO* is not attached hereto but may easily be accessed at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-00-429AL.doc.

⁸ *Id.* at ¶ 1.

Pooling Administration System

 blainsn@choiceonecom.com (SP)

Sign Ou

Months to Exhaust and Utilization Certification Worksheet • TN Level

Date Monday, December 2, 2002

OCN 8366

Company Name CHOICE ONE COMMUNICATIONS, INC.

Rate Center FORT WAYNE

List all Codes NPA(s)-NXXs and Blocks NPA(s)-NXX-X(s)

260-969-0, 1, 2, 3, 4, 5, 6, 7, 8, 9

A. Available Numbers *

3979

B. Assigned Numbers *

6021

C. Total Numbering Resources *

10000

D. Quantity of numbers activated in the past 90 days and excluded
from the Utilization calculation *

101

Growth History - Previous 6 months² *

Month 1	30	Month 2	30
Month 3	30	Month 4	30
Month 5	30	Month 6	30

Month 1	1	Month 2	1
Month 3	0	Month 4	0
Month 5	0	Month 6	0
Month 7	0	Month 8	0
Month 9	0	Month 10	0
Month 11	0	Month 12	0

j. Average Monthly Forecast (Sum of months # 1-6 (Part F above) divided by 6)

0.333

l. Months to Exhaust⁴ (Numbers Available for Assignment to customers (A) / Average Monthly Forecast (G))

Block Requested

1

A. Available Numbers

3979

H. Months to Exhaust

11948.949

I. Utilization⁵(Assigned Numbers(B)) /(Total Numbering Resources (C) - Excluded Numbers (D)) * 100

60.824

Explanation

I am looking to get a block to be able to
accomodate a business that needs 600
consecutive numbers. We have a lot of


1. A copy of this worksheet is required to be submitted to the Pooling Administrator when requesting additional numbering resources in a rate center. For auditing purposes, the applicant must retain a copy of this document.
2. Net change in TNs no longer available for assignment in each previous month, starting with the most distant month as Month #1, and Month #6 as the current month.
3. Forecast of TNs needed in each following month, starting with the most recent month as Month: #1.
4. To be assigned an additional thousands-block (NXX-X) for growth, "Months to Exhaust" must be less than or equal to 6 months. (FCC 00-104, § 52.15 (g)(3)(iii)).
5. Newly acquired numbers may be excluded from the Utilization calculation (FCC 00104. section 52.15 (g)(3)(ii))

Show Calculations

Continue

Cancel

Pooling Administration System

 blainsn@choiceone.com (SP)

01/11/2002

Months to Exhaust and Utilization Certification Worksheet - TN Level (Continued)

to 60.824 percent, while your State requires a utilization of 65.000 percent

Select One Option and Submit

- ☒ Return to the Months To Exhaust Form
- ☐ Discard all the information provided for the request and start with a fresh Part 1A
- ☐ State Waiver Option

Submit

Cancel